

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Leslie and Haynes Analyst: Paul Brainin Bill Number: SB 1383

Related Bills: SB 134 (97) Telephone: 845-3380 Amended Date: 06-30-98

Attorney: Doug Bramhall

Sponsor:

SUBJECT: FTB Tax Return Information/Unauthorized Disclosure Or
Inspection/Misdemeanor

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

X AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended January 6, 1998/April 20, 1998.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

X REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED January 6, 1998, STILL APPLIES.

X OTHER - See comments below.

SUMMARY OF BILL

This bill would add to the Administration of Franchise and Income Tax Law (AFITL) a section treating willful unauthorized inspection or unwarranted disclosure or use of confidential information as an act punishable as a misdemeanor. Taxpayer notification by the Franchise Tax Board (FTB) of any known act described above also would be required.

This analysis does not address the bill's changes to the Revenue and Taxation Code (R&TC) administered by the State Board of Equalization and to the Unemployment Insurance Code as they do not impact the FTB.

SUMMARY OF AMENDMENT

The June 30, 1998, amendments removed the changes to the section of the AFITL pertaining to confidential tax information that may be provided to other entities based on reciprocal agreements.

The June 30, 1998, amendments added a section to include the prohibition of willful unauthorized inspection by the FTB or any state employee to remedy technical concerns identified in this department's prior analysis of this bill.

A new discussion of specific findings regarding the bill and pertinent state law is provided below. The remainder of the department's analyses of the bill as introduced January 6, 1998, and amended April 20, 1998, still applies. The department's unresolved policy and implementation concerns are reiterated for convenience.

Board Position:

<u> </u> S	<u> </u> NA	<u> X </u> NP
<u> </u> SA	<u> </u> O	<u> </u> NAR
<u> </u> N	<u> </u> OUA	<u> </u> PENDING

Department/Legislative Director

Date

Johnnie Lou Rosas

7/17/98

SPECIFIC FINDINGS

Existing state law, under the R&TC, makes it a misdemeanor for any current or former member or officer of the FTB or current or former state employee to disclose or use confidential income tax information.

This bill would make any willful unauthorized inspection or unwarranted disclosure or use of confidential information a misdemeanor for anyone described in the law above.

This bill would require the FTB to notify a taxpayer of any known incidents of willful unauthorized inspection or unwarranted disclosure or use of confidential information.

Policy Considerations

This bill would conform state law partially to the federal law concerning the unauthorized willful inspection of confidential tax records and would require the notification of taxpayers of willful unauthorized inspection or unwarranted disclosure or use of that information. However, federal law requires taxpayer notification only if a person is criminally charged with inspection or disclosure of a tax return or return information. This bill would cause the department to notify taxpayers of any known willful unauthorized inspection or unwarranted disclosure or use of confidential tax records, regardless of whether criminal charges are filed. In addition, this bill would make the offense a misdemeanor for state purposes while it is a felony under federal law.

Implementation Considerations

This bill would require additional education of the department's staff regarding willful unauthorized inspection of confidential tax records. However, this education already has begun as a result of the new federal law.

This bill would make "any willful unauthorized inspection or unwarranted disclosure or use of confidential information" a misdemeanor. It is unclear whether the misdemeanor would apply to any use of confidential information, or only unwarranted use.